

# Annual Report 2008-2009

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Ontario  
**Human Rights Commission**

Commission ontarienne des  
**droits de la personne**



## Our Commissioners

Barbara Hall, Chief Commissioner

Patrick Case

Ruth Goba

Raja Khouri

Fernand Lalonde

Bhagat Taggar

Maggie Wenté

Pierre Charron (term completed December 31, 2008)

Kamala-Jean Gopie (term completed December 31, 2008)

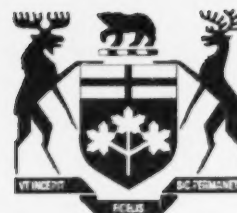
Alana Klein (term completed September 19, 2008)

Christiane Rabier (term completed December 31, 2008)

Ghulam Abbas Sajan (term completed December 31, 2008)

Richard Theberge (term completed December 31, 2008)

Albert Wiggan (term completed December 31, 2008)



Ontario

June 26, 2009

The Honourable Steve Peters  
Speaker of the Legislative Assembly of Ontario  
Room 180  
Legislative Building  
Queen's Park  
Toronto, ON  
M7A 1A2

Dear Mr. Speaker:

Under Section 31.6 (2) of the Ontario *Human Rights Code*, the Ontario Human Rights Commission is required to submit a report on the Commission's activities for the previous fiscal period by June 30<sup>th</sup> of each year, to be tabled in the Legislature.

In this regard, I am pleased to provide you with the Commission's Annual Report of its activities from April 1, 2008 to March 31, 2009.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Hall".

Barbara Hall, B.A, LL.B, Ph.D (hon)  
Chief Commissioner



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## Message from the Chief Commissioner

This past year we celebrated the 60<sup>th</sup> anniversary of the United Nations Universal Declaration of Human Rights. As we did, we thought about how recent the concept of human rights really is, and how, over 60 years, it has changed to include more and more people in our communities. People with disabilities, members of the LGBT communities, newcomers from across the globe – all have worked hard to see themselves reflected accurately and equitably in our society. That work has resulted in great advances; much has been achieved in just 60 years.

The question of “what are human rights” continues to be debated. This year, more voices called for social and economic status and gender identity to be treated as essential human rights. Some of those debates are ongoing and, made more concrete by the current economic slowdown, will grow louder. New concerns will be raised and will need to be carefully considered. Human rights, it is clear, are not static – they change as our society changes and the faces in our communities change.

Sadly, some long identified issues have been very slow to change. The discrimination faced by Aboriginal and Black people continues to be rampant and hugely damaging. The treatment of these communities are key priorities for the OHRC.

The Ontario human rights system has had its own internal changes to deal with, too. The structure of the system has been revised and improved to meet the new challenges and needs of the people of Ontario. At the OHRC, as of December 30, 2008, we no longer have responsibility for individual complaints, but we

continue to have a role in many cases before the Human Rights Tribunal and other venues.

The changes to the system have resulted in a greatly reduced workforce at the Commission and required many tough decisions. But thanks to the professionalism of all involved we are moving forward with our new mandate and making a positive difference in the lives of people in our province. That mandate sees us proactively dealing with systemic discrimination. We are working with organizations and communities to find and implement solutions to problems that, if left unaddressed, are harmful to individuals and communities.

We had first-hand experience of such problems as we worked to deal with attacks on Asian Canadian anglers. While there were specific roles for police and provincial Natural Resources staff, the question of how to change attitudes contributing to hate, racism and resulting discrimination was the hard challenge. In the end, we learned that while no one may have direct responsibility, everyone has a real role to play: school boards, police, municipalities, community groups and more came together to find long-term solutions and to help build the infrastructure to prevent future problems. In the same way, we continue to work with the Ministry of Education, various police services, private-sector employers and other organizations to identify problems and implement solutions.

The faltering global economy has created new human rights concerns for Ontarians. We have made submissions to the Government of



Ontario to include a human rights perspective on innovative work to deal with poverty reduction, youth violence and economic recovery. We have heard from many women who have been laid off or fired because they were pregnant. It is an all too familiar picture: in hard economic times, vulnerable people often bear the brunt, even though the law is clear that this should not happen. We will continue to work with a wide range of communities whose members are suffering as a result of the recession. We are responding, in part by clarifying and developing our policies on housing, and on the intersection (or often "collision") of competing rights.

In these times of change, one factor is constant: the OHRC attracts controversy. Because we have always needed to deal with issues that are unresolved or emerging, reflecting our changing society, controversy has arisen. This past year, we have addressed issues around freedom of expression – a concept and a right that we fully support. Freedom of expression is a cornerstone of this country and this province. The *Human Rights Code* does not give the Ontario Human Rights Commission the power to, for example, censor the media and, in my

opinion, it never should. At the same time, we all need to recognize that the way an issue is sometimes expressed can have a negative impact on people in the community.

This year of transition has been challenging but rewarding and exciting as well. It is a privilege for me to be a part of a group of committed Commissioners and to have the opportunity to work with the smart and professional staff at the OHRC. Thank you to all for making so much happen. I also thank our many community partners, both old and new, who have challenged and supported us. Their contributions have been crucial to our successes.

Finally, I know that as change continues, we are well positioned for the future. With a dedicated team in place, we will continue to ensure that rights are protected and that communities are inclusive. In short, we will help the people of Ontario incorporate human rights into public affairs, commerce and daily life.



Barbara Hall  
Chief Commissioner

# Continuing the transformation

## **A changed Commission, a changed annual report**

As part of the changed Commission, we are looking at new ways of presenting our annual report. Respect for the environment has led the Commission, wherever possible, to use means other than paper to send its message. This year's report has been shortened to include a high-level overview of the Commission's progress in the past year and future directions. An expanded online version will provide many helpful links to descriptions of Commission activities.

## **June 30 – the next stage in the transformation**

On June 30, 2008, the *Human Rights Code Amendment Act, 2006* came into effect. From that date, all new complaints, which in the past would have been filed with the Ontario Human Rights Commission (OHRC), were now to be filed with the Human Rights Tribunal of Ontario (Tribunal). This date also represented the next stage in the transformation of the Commission, as it shifted its focus away from processing and litigating individual cases, instead setting its sights on bigger picture human rights issues, and issues of broader public interest.

People who still had complaints with the Commission after June 30, 2008 could either continue with this direction until December 31, 2008, or could "opt out" and file an application directly with the Tribunal up to June 30, 2009.

## **Communicating the changes**

The Commission worked closely with the Tribunal, the Human Rights Legal Support Centre (Legal Support Centre) and the Ministry of the Attorney General, to coordinate communications and make sure the people of

Ontario understand the changes to the human rights system, the roles of each organization, and their relationship to each other.

A coordinated campaign to contact complainants and respondents affected by the transition



included several mailings, a new brochure, information on the OHRC website and frequent mention in public documents and speeches by the Chief Commissioner.

## **Changing the face of a changing Commission**

The transition involved extensive restructuring of the Commission, including a significant reduction in staff. This involved many difficult choices and significant stress, both for the employees who moved on and the staff who remained. To help the remaining staff deal with the transition and the revised mandate, the OHRC is committed to ongoing staff development as it grows into its emerging role.



## Setting our priorities, embracing our new direction

In November 2008, the OHRC finalized strategic and business plans to guide its work over the next three years. The Commission aims to educate, empower and mobilize partners in communities across the province to raise awareness, help them identify their concerns and implement solutions.

During this period, the OHRC will give priority to Ontarians affected by issues of race and hate crimes, housing, family status and mental health. It will work to move the issue of discrimination from the pages of various reports and inquiries (such as Ipperwash, Hate Crimes Working Group and the Falconer "School Safety" report), into real action that the people of Ontario can see, feel and contribute to.

The OHRC will also continue its work on disability (including providing advice and comments to various committees arising from the *Accessibility for Ontarians with Disabilities Act*), and on legislative review.

To meet these priorities, the OHRC will continue to develop and publicize leading edge human rights policies that clarify the law and promote effective public interest remedies for problems. It will conduct public interest inquiries, and will deliver focused outreach, education and training (including e-learning) to show the effects of discrimination and how to prevent it.

The Commission will also take targeted legal action to clarify the law and enforce compliance with the *Ontario Human Rights Code*. This may include intervening in existing applications before the Human Rights Tribunal of Ontario,

and bringing its own applications on issues it feels are in the broader public interest. The OHRC will also conduct research and monitoring to report on the state of human rights in Ontario.

Through its priorities, and through its many activities, the OHRC will focus on advancing human rights in our workplaces, in our schools, in our homes and wherever rights are threatened.

## Building the human rights partnership

As the transformation of Ontario's human rights system proceeds, the Commission is working with the Tribunal, the Ministry of the Attorney General and the Legal Support Centre. The OHRC is sharing its expertise in a variety of ways, including:

- Providing training for Legal Support Centre staff on litigation strategies, case conferencing, and an overview of the Toronto Police Charter process
- Extending its telephone enquiry services (originally scheduled to end on September 30) until December 31, 2008, to provide employers, service providers, respondents and the general public with information on the new human rights system, and with general information about the *Code*
- Working with the Tribunal to implement a process to give people the option to transfer their cases from the Commission to the Tribunal.

The Commission continues to maintain a regular dialogue and share information with its human rights partners.

# Steps towards schools that work for all students

Education is essential to the life of an individual and to a community as a whole. The school is one of the first places where children learn to relate and interact, and begin to develop a perception of themselves and of the world outside their homes.

In April 2007, after filing a complaint against the Ministry of Education, the Commission negotiated a settlement with the Ministry that related to its safe schools legislation, policies and practices. This settlement arose because of a strong perception that the zero tolerance approach of the *Education Act* was having a disproportionate affect on racialized students and students with disabilities.

Over the past year and a half, the Ministry has made progress in implementing the terms of the settlement, and changing policies and practices that should help the educational opportunities and experiences of many students who had faced barriers in the past. Examples of this progress include:

- Amending the *Education Act* so that principals and boards consider mitigating factors before suspending or expelling students
- Amending the *Act* to mandate the creation of alternative education programs for suspensions of longer than five days
- Hosting education sessions with staff across the province
- Introducing new Policy and Program Memoranda on topics such as progressive discipline

- Putting in a variety of guidelines and supports for anti-bullying initiatives
- Hosting a safe schools symposium in May 2008
- Creating areas in the curriculum to integrate anti-discrimination education, such as a new course in Equity Studies.

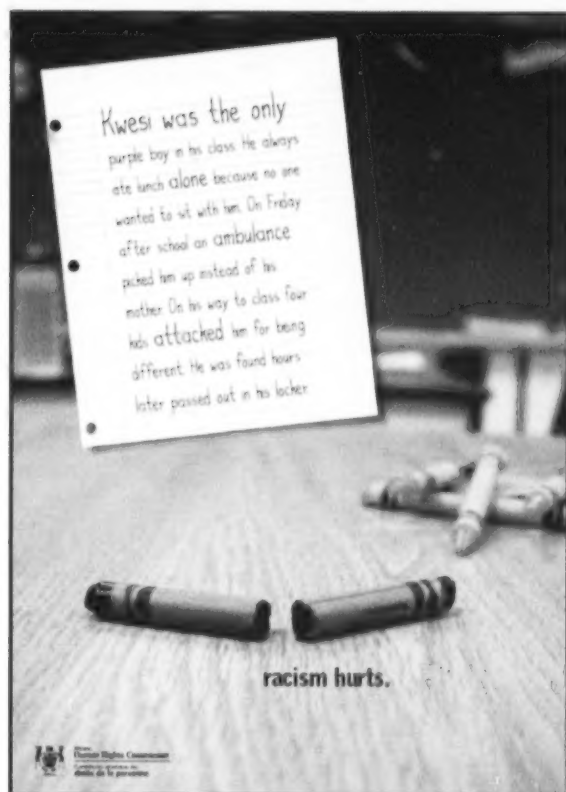
These parts of the Ministry's agreement are important, systemic steps to prevent discrimination in our schools. The Commission looks forward to learning the details of the Ministry's recent activities towards collecting race-based data to review the effects of suspensions and expulsions on students who are identified by *Code* grounds.

There is still more work to be done, but the Ministry and school boards across the province have made steps in the right direction. Creating safe and equitable schools where all students have an opportunity to succeed is only possible with the combined efforts of students, parents, teachers, principals and vice-principals, administrators, Ministry staff, politicians, and also the team at the Commission.

The OHRC remains committed to offering its resources and support. It will continue to monitor the settlement to see that these changes in structure and policy also translate into increased learning opportunities for all Ontario students.



## Sending the message that racism hurts



Last fall, students from kindergarten to grade 8 learned how "racism hurts" and what they could do to combat it, thanks to a unique initiative. The "racism hurts" campaign, a joint effort by the OHRC and the Elementary Teachers' Federation of Ontario (ETFO), includes a poster and curriculum materials to help teachers begin a discussion with students about human rights, discrimination and racism, and to get students to think about what they can do when they experience or observe racism in their school and in their community. Materials were distributed to more than 3,500 schools across Ontario.

The award-winning poster was designed as a result of the OHRC teaming with students and faculty from Seneca College's Graphic Design Program in a course called "Design for Social Change." ETFO members volunteered to develop lesson plans.



## Taking human rights back to school

As well as working with Seneca College, the Commission teamed up with students in Humber College's Media Studies program. The students' mission — to help the OHRC achieve a new "brand" that represented its transformed operations. Student teams made recommendations on all facets of the branding process, including work to define the OHRC's core business and core audiences, creating

ideas for a new logo and tagline, and coming up with many compelling creative ideas for advertising in media ranging from bus shelters to internet search engines.

The OHRC is currently reviewing the wealth of products, ideas and services presented, and will use elements of several teams in future communications projects.



## Reaffirming the rights of employees with mental illness

In August 2008, the Ontario Divisional Court upheld the finding of discrimination of the Human Rights Tribunal of Ontario in *Lane v. ADGA Group Consultants Inc.* After being hired as the most qualified candidate, Mr. Lane, a quality assurance analyst, was fired eight days into the job because he requested accommodation for his mental illness. The Court found that the employer had a dismissive attitude towards Mr. Lane and showed disregard for his bipolar condition. When he lost his job, Mr. Lane went into a state of full-blown mania which led to hospitalization for several days, and began a vicious cycle that led to marital breakdown, the loss of his family home, and further instability.

This decision clarifies what steps employers have to take to accommodate employees with mental illness. Steps include getting information relevant to the employee's ability to do the job, which may include medical condition, prognosis for recovery, job capabilities and ability to do alternate work.

The Court's findings and Mr. Lane's circumstances show that people with serious mental health issues can effectively deal with their condition and be productive members of society. But for that to happen, employers must overcome fears and biases and give people with mental illness the dignity, respect and equal treatment that everyone is entitled to under human rights laws.



## When faith and public service collide: the Christian Horizons decision

In April 2008, the Human Rights Tribunal of Ontario released its decision in the case of *Connie Heintz v. Christian Horizons*. The decision has a significant impact for faith-based and other organizations that provide services to the general public. Such organizations must make sure their hiring policies and practices do not unreasonably restrict or exclude the employment of persons based on grounds under the *Ontario Human Rights Code*.

Ms. Heintz, an individual of deep Christian faith, and a model employee for five years with Christian Horizons, was providing care

and support to people with developmental disabilities. When first hired, she was required to sign a Lifestyle and Morality Statement, which prohibits, among other things, homosexual relationships. After several years, Ms. Heintz came to terms with her sexual orientation as a lesbian. When Christian Horizons discovered this, they advised her that she was not complying with the Statement and required her to leave the organization.

The Tribunal ruled that Christian Horizons could not require its employees to sign the Statement. It found that Christian Horizons is primarily

engaged in serving the disability-related needs of its clients, and since its services were not limited to Christian clients, the prohibition on homosexual relationships was not a legitimate job requirement.

The Tribunal awarded Ms. Heintz lost wages, general damages and damages for mental anguish. It also ordered Christian Horizons to: no longer require employees to sign a lifestyle and morality statement; develop anti-discrimination policies; provide training to all employees and managers;

and review all of its employment policies to make sure that they comply with the *Code*.

This decision, which is under appeal, is important because it sets out the obligations of faith-based and other organizations when their services extend beyond solely focusing on the interests of their particular community. In such situations, organizations cannot institute job requirements that are discriminatory.

## Accommodating religious beliefs in our courtrooms

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Although it is rare for the Commission to intervene in a criminal case, it will do so when human rights issues arise that are of greater public interest. This is why the OHRC applied to intervene at the Superior Court of Ontario, which was hearing the judicial review application of a woman who was ordered to remove her niqab when testifying at a preliminary hearing in a sexual assault case. A niqab is a veil for covering the hair and face except for the eyes that is worn by some Muslim women.

This is the first time this issue has arisen in a criminal case in Ontario, and the decision made will be an important legal precedent for the nature and scope of accommodation based on religious beliefs.

This case involves a possible conflict between the right of religious freedom and the defendants' rights under the *Charter of Rights and Freedoms* to "full answer and defence" of the charges against them. The Commission felt the lower court did not follow a proper process for considering the religious rights of the witness.

The Superior Court granted the Commission's request to intervene, overturned the preliminary inquiry judge's order that the witness remove her niqab, and provided instructions to the preliminary court judge for reconsidering the niqab issue. The Commission will continue to monitor this case as it continues in the summer of 2009.

This is the same emphasis on appropriate accommodation processes and measures that the OHRC has successfully argued in other cases, including *Syndicat Northcrest v. Amselem* [2004] and *Multani v. Commission Scolaire Marguerite-Bourgeoys* [2006].

In *Amselem*, orthodox Jewish residents of a Montreal condominium wanted to build a succah, or religious hut, on their balconies during the annual nine-day religious festival of Succot. Other condominium owners claimed that this religious belief conflicted with their right to peaceful enjoyment and free disposition of property under the *Quebec Charter of Human Rights and Freedoms*. The Supreme



Court of Canada did not agree, and ruled in favour of the Jewish residents.

In *Multani*, a Sikh youth sincerely believed that he was required to carry his kirpan, or religious

dagger, at all times, including at school, albeit in a discreet and restricted fashion. The Supreme Court of Canada found that this religious belief did not unduly conflict with the school's safety concerns about weapons on school property.

## A prescription for human rights in medicine

In 2008, the Ontario College of Physicians and Surgeons created a human rights policy for its members. In doing so, the College applied some of the points raised by the Commission in earlier discussions on its guidelines for starting and ending doctor-patient relationships.

The College asks doctors to make sure their policies, practices and decisions are free of bias and discrimination. This policy does not force doctors to provide services beyond their clinical expertise, but says they can't choose to provide a service to some people and not others based on *Code* grounds. Where patients need care that falls outside a doctor's competence, the

OHRC encourages doctors to consider providing basic care and making referrals to specialists to meet other needs.

The College also advises them to make sure they do not make professional decisions based on personal moral or religious beliefs in a way that has a discriminatory impact on people protected by *Code* grounds.

The Commission also worked with the College on revising the accreditation process for foreign-trained doctors, and will continue to promote medical services that are respectful, inclusive and non-discriminatory.

## Continuing the connection with Toronto Police

The Commission continues to work with the Toronto Police Service (TPS) and the Toronto Police Services Board (TPSB), to identify human rights issues and develop appropriate initiatives to prevent and eliminate racism and other forms of discrimination. This three-year project, now in its second year, affects both police employment policies and the way police services are delivered to the public. Activity highlights to date include:

- Creating learning programs that address racism and racially-biased policing

- Ensuring all TPS communications reinforce human rights and anti-racism themes
- Improving recruitment activities to reach all of Toronto's diverse communities
- Making sure that advancement and promotion opportunities are available within the TPS for members of Toronto's racialized and marginalized communities
- Improving internal processes for responding to human rights complaints filed against TPS.





## Keeping tabs on transit

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The Commission made significant strides in its Ontario-wide campaign to have all transit stops announced. By October 2008, all 38 of Ontario's public transit providers had made a commitment to announce all stops by the end of 2008.

This request for action, which began in October 2007, reflected the Human Rights Tribunal of Ontario decision in *Lepofsky v. TTC*, in which the transit provider was given 30 days to begin announcing all stops on all transit routes.

Since then, Ontario's transit services and their respective municipalities have taken a range of actions to support this initiative. For example, they have developed policies, training and guides for drivers; purchased and installed public announcement equipment for manual announcements; made alterations to vehicles; and, in some cases, found funding and sourcing for automated stop announcement systems, and started or completed their installation. Many have worked with each other, and with

unions, accessibility advisory committees, government agencies, community members or advocacy groups to address concerns and develop appropriate training, procedures and monitoring systems.

While good progress has been made, some transit providers have not yet met their commitments. The Commission will continue to monitor and work with these providers and their communities to overcome concerns, and, if needed, take the appropriate legal steps to make sure all transit providers provide fully accessible service.

This is excellent news for Ontarians with visual impairment, and means that, wherever they travel in the province, they will find consistent, more accessible public transit that they can use with dignity and confidence. This service will also benefit many other transit users, such as tourists, newcomers, and riders who can't see their location due to inclement weather or crowding.



## Resolving conflict and tension: follow-up on the Asian Canadian Angler Inquiry

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In April 2009, the OHRC released its final report on the Inquiry into Assaults on Asian Canadian Anglers, entitled *Fishing without Fear: Follow-up report on the Inquiry into Assaults on Asian Canadian Anglers*. This report highlighted the progress 22 organizations have made in response to reports of harassment and assaults against Asian Canadian anglers. The report also

identified areas for improvement, and called for communities to continue working on and responding to incidents of racism.

Since starting the Inquiry in 2007, in partnership with the Metro Toronto Chinese and Southeast Asian Legal Clinic, the number of reported incidents has decreased markedly.



## Asian Canadian Angler Inquiry – a short history

- Spring and summer 2007: incidents first reported in the Chinese-language media
- September 2007: first article in the Toronto Star about incidents of assault in the Lake Simcoe region
- September 2007: Community Reference Group, on behalf of the Chinese Canadian and other Asian Canadian communities, holds a press conference, calling for the incidents to be treated as hate crimes
- October 2007: Peterborough Community and Race Relations Committee publicizes its concerns and forms a community-based coalition
- November 2007: OHRC launches inquiry in partnership with the Metro Toronto Chinese and Southeast Asian Legal Clinic and other community partners
- December 2007: OHRC releases its preliminary findings
- May 2008: OHRC releases its report, *Fishing without Fear*, outlining the commitments and actions of 22 organizations.

The OHRC has seen an increase in dialogue about hate activity and racial profiling and a heightened response to this issue by many organizations. Examples range from front-line police training on hate crimes, to school boards including classroom discussion of racism against Asian Canadian anglers.

This inquiry is an excellent example of the type of work the OHRC will continue to do in the future. It provided an environment for

communities to work together to take action, and for affected communities to know more about their rights and how to protect them.

As Ontario continues to become more diverse, new opportunities arise every day – both for inclusion and hate activity. When leaders from a wide range of organizations all step in and say, “racism and hate have no place in our community,” the focus is on inclusion.



## Continuing the discussion on freedom of expression

During the past year, there has been much media coverage of the OHRC's statement about human rights complaints filed against Maclean's magazine. Our statement made clear that, although we had no jurisdiction to hear a

complaint based on the publication of certain views, we do have a broader role in helping the community assess and discuss the tension and conflict that such writing can cause.

The media will continue to play an important role in fighting discrimination in our society, and in shaping public opinion — but it also has the potential to add to discrimination and intolerance. A full and open dialogue is critical in today's information-rich world.

That dialogue includes the Commission. It is the OHRC's duty, in law, to educate by

expressing opinions and speaking up on human rights issues. We will continue to write letters to the editor, publish articles, and appear on radio and television, to consistently send the message that balanced dialogue where different voices are heard is the best path forward on issues affecting the rights of people across Ontario.

## Talking about hate speech on the Internet

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In October 2008, Professor Richard Moon released a "Report to the Canadian Human Rights Commission Concerning Section 13 of the *Canadian Human Rights Act* and the Regulation of Hate Speech on the Internet." There is no direct effect on Ontario, which does not have an equivalent to the federal s.13 in Ontario's *Code*. However, the OHRC saw the report as an important contribution to the discussion on any legal limits to freedom of speech, and offered its views in a submission in January 2009.

Key points in this submission included the OHRC's belief that it is in the public interest that hate expression remains under the purview of both human rights and criminal law

systems, and that legal enforcement alone is not sufficient. The OHRC supported the need for human rights agencies to use enforcement powers to address publication with the intent to deny housing, services or employment because of an individual's race, religion or other prohibited ground of discrimination. It stated that freedom of expression must not otherwise be interfered with except for expression that incites violence against identifiable groups, as defined by the *Criminal Code*.

The OHRC also outlined how the right to freedom of expression comes with the responsibility to confront hate expression, and how a human rights approach offers broad tools for doing this while respecting freedom of speech.

## Realizing rights in rental housing

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In July 2008, the OHRC released *Right at Home: Report on the consultation on human rights and rental housing in Ontario*. This report followed a year of public sessions, meetings and submissions involving hundreds

of individuals, organizations and landlords across the province. It focuses on housing as a human right, and sets out a framework for collective action to identify, remove and prevent discrimination in rental housing.

The OHRC heard how tenants are affected by issues such as “adult-only” rentals, discriminatory attitudes and stereotypes, and applicant screening requirements including illegal rent deposits or requests for guarantors for some tenants based on *Code* grounds such as gender, race or ancestry. Many tenants, housing providers and decision-makers also spoke about the challenges arising from the duty to accommodate because of disability or family status.

*Right at Home* included 37 recommended actions for various levels of government, partners in affordable housing development, social housing providers, decision-makers such as housing tribunals and boards, private-market landlords, service providers, tenant organizations and human rights advocates.

This Report is just the beginning of the OHRC’s commitment to help make human rights lived rights for tenants across Ontario. The Commission is developing a formal policy on rental housing, and has actively promoted human rights in areas such as zoning and municipal by-laws. For example, the OHRC has had extensive discussions with the City of Oshawa and other municipalities to express concerns about licensing and by-laws affecting student housing, and continues to speak out when different rules are applied to housing geared for persons with mental illness. One of the key messages in all of these discussions is the need — in fact the legal requirement — for communities to use planning forums to deal with land use and building issues, not to choose who lives next door.



## Focus on family: updating the pregnancy/breastfeeding policy

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In April 2009, the OHRC published an updated *Policy on Discrimination Because of Pregnancy and Breastfeeding*. The revised Policy reflects recent changes to the human rights system. It includes new legal cases about pregnancy and breastfeeding, more examples of discrimination based on pregnancy and breastfeeding, and more information on preventing discrimination in housing, services, goods and facilities. The Policy also provides examples of discrimination

based on pregnancy and/or breastfeeding combined with other *Code* grounds.

In recent months, there have been a growing number of employment-based complaints by women who were pregnant or returning from maternity leave. This revised Policy will remind employers that discrimination based on pregnancy or breastfeeding is against the law, and that tough economic times do not change their duty to accommodate.



## Looking at legislation

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The OHRC developed a new monitoring and legislative review process to systematically track and report on the state of human rights in Ontario in accordance with its new mandate. One such area being monitored is the implementation of the *Accessibility for Ontarians with Disabilities Act (AODA)*. The

OHRC has provided advice and support through submissions, meetings, and presentations to AODA committees on Employment Standards, Transit, Customer Service, and Built Environment. The OHRC also reviewed the proposed communication standard and prepared comments on the final proposed transit standard.



## Settlements lead to new human rights partnerships

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In recent settlements with two different Boards, the OHRC was pleased to see an emerging focus on human rights.

In the case of *Gireesh Patel v. The Workplace Safety and Insurance Board*, Mr. Patel, a Hindu, was deemed by a Board adjudicator to have refused suitable work offered by his employer, even though this work involved food handling processes that were contrary to his religious beliefs. As part of the settlement of Mr. Patel's ensuing human rights complaint, the Board agreed to work with the Commission to provide direction to its decision-makers, so that human rights considerations are taken into account when decisions are made on claims before the Board.

The case of *Carlo v. the Ministry of Municipal Affairs and Housing* involved a complaint by Mr. Carlo that the services of the Landlord and Tenant Board were not accessible to him. He had requested a number of accommodations based on disability, involving Board procedures such as producing documents in large print. As

part of a settlement, the Board has agreed to review its procedures for receiving, processing and hearing applications, as well as for issuing decisions and releasing records, to make sure all of these steps are consistent with the *Code*.

Both of these settlements are consistent with the Supreme Court of Canada decision in *Tranchemontagne v. the Ministry of Community and Social Services*. In this decision, the Court required that the Social Benefits Tribunal apply the *Human Rights Code* to resolve the issue before it.

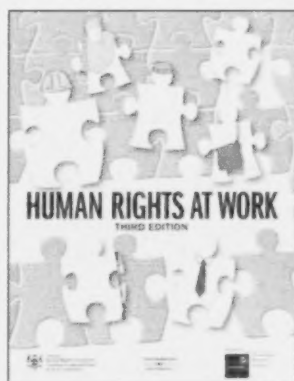
The Supreme Court also stressed the primacy of the *Code* over other Ontario laws, unless the legislation governing the body expressly states that the *Code* will not prevail.

The OHRC will continue to monitor and work with agencies, boards and tribunals to make sure that *Code* principles are part of their policies, procedures and decisions.



## Rewriting the book on human rights in the workplace

In November 2008, the Commission released its third edition of *Human Rights at Work*. This plain-language guide includes examples, best practices, sample forms and other resources to help people develop and maintain inclusive, respectful workplaces that meet the standards of the *Code*. The Commission has combined its human rights expertise with the publishing skills of Carswell



Thomson Publishing to help make *Human Rights at Work* available across Ontario.

Most human rights complaints in Ontario involve the workplace. This handbook outlines some common human rights issues and provides explanations and examples to help employers and employees understand their obligations and responsibilities.

The Human Resources Professionals Association (HRPA) has endorsed the guide as a valuable resource containing advice and tools for employers that can be tailored to meet the needs of any organization, business or agency.

## Taking human rights to the community

The OHRC continued its extensive efforts to educate the public about human rights issues. It based its selection of public events, presentations and speeches to focus on strategic priorities including the new human rights system, housing, law enforcement, mental health and other vulnerable sectors.

The OHRC took part in 86 events, including:

- Workplace Safety & Insurance Board Program for Employers
- Ministry of Education Safe Schools Symposium
- Senior Pride Network Symposium
- Toronto Pride Day booth
- People in Motion

- Canadian Aboriginal Festival
- Human Resources Professionals Association Annual Conference.

The Chief Commissioner continued to address a large number of agencies and organizations to share information on the work of the OHRC and the transition, with an emphasis on issues such as racism, housing, law enforcement, mental health and various vulnerable sectors. The Chief Commissioner spoke at 41 events, including:

- Canadian Association of Statutory Human Rights Agencies (CASHRA) 2008 National Conference



- Co-operative Housing Federation of Canada Member Education Forum
- Ontario Association of Chiefs of Police
- Ministry of Education Safe Schools Symposium

- University of Windsor Faculty of Law
- 100 Huntley Street
- "The Agenda" with Steve Paikin.



## Focusing on youth: TakingITGlobal



To commemorate the 60<sup>th</sup> anniversary of the signing of the Universal Declaration on Human Rights, the OHRC worked with CASHRA, TakingITGlobal and the John Humphrey Centre for Peace and Human Rights to create a new website: [www.tigweb.org/themes/udhr60/](http://www.tigweb.org/themes/udhr60/). This site offers youth an interactive tool to learn

about human rights and to talk about human rights issues affecting Canadians.

Targeted to Canadians aged 18 – 35, the website offers information about human rights issues and legislative frameworks enforcing human rights. It also includes tips on how to get involved in promoting and protecting human rights. The site's interactive features include discussion boards, an online art gallery and calls to action.



## Sharing what we learn: CASHRA 2008 conference

The OHRC was pleased to host the 2008 conference of the Canadian Association of Statutory Human Rights Agencies (CASHRA) at Niagara College. Under this year's theme, *Collective Strength: Commissions to Communities and Back*, over 200 people (including representatives from human rights commissions across Canada and community representatives) shared experiences and expertise on a number of key human rights issues ranging from national security and profiling, working with policing services and other public institutions for systemic change, to the accommodation debate.

One of the highlights of the conference was the plenary discussion about the roles of commissions and the media and implications for human rights. Panelists Alan Borovoy, Canadian Civil Liberties Association, Wahida Valiente, Canadian Islamic Congress, Mel Sufrin, Ontario Press Council, and Pearl Eliadis, human rights lawyer, engaged in a lively debate on human rights protections and legal limits for



freedom of expression alongside freedom from discrimination.

Another highlight was a speech given by Alex Neve, Secretary General of Amnesty International,

Canada, who spoke on the need for human rights commissions to recognize, promote and integrate Canada's international human rights obligations into the fabric of their work.

## Addressing individual human rights complaints

Since June 30, 2008, the OHRC ended its role of accepting individual human rights complaints. All new human rights complaints – or applications – were filed directly with the Human Rights Tribunal of Ontario. The following numbers chart the OHRC's work on cases during this transition phase:

- The OHRC began the fiscal year with 4,199 cases
  - 702 new complaints were received (between April 1, 2008 and June 30, 2008)
  - 2,090 complaints were completed at the OHRC (between April 1, 2008 and December 31, 2008)
  - An additional 801 cases were closed as a result of people converting their complaints with the OHRC into applications at the Human Rights Tribunal of Ontario as outlined in sections 53(3) and 53(5) of the *Code*.
- Of the 2,090 cases completed at the Commission:
    - 46 cases or 2.2 % were dismissed based on preliminary objections (s.34 of the *Code*)
    - 974 or 46.6% of cases were mediated or settled by the OHRC or resolved between the parties
    - 665 or 31.8% of cases were withdrawn by the complainant for various reasons
    - 405 cases or 19.4% received an OHRC decision based on the findings of its investigation (s.36 of the *Code*)



Table 2: Monetary damages in settlements by ground

Ground	Mediated			Conciliated			Total Cases Settled		
	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average
Age	23	\$129,950.00	\$5,650.00	29	\$315,221.61	\$10,869.71	52	\$445,171.61	\$8,560.99
Ancestry	20	\$272,660.00	\$13,633.00	23	\$197,250.00	\$8,576.09	43	\$469,910.00	\$10,928.14
Association	5	\$86,337.37	\$17,267.47	1	\$35,000.00	\$35,000.00	6	\$121,337.37	\$20,222.90
Breach of Settlement	1	\$2,500.00	\$2,500.00	3	\$52,700.00	\$17,566.67	4	\$55,200.00	\$13,800.00
Citizenship	1	\$3,000.00	\$3,000.00	1	\$75,200.00	\$75,200.00	2	\$78,200.00	\$39,100.00
Creed	14	\$124,510.00	\$8,893.57	23	\$108,476.56	\$4,716.37	37	\$232,986.56	\$6,296.93
Disability	226	\$1,498,503.96	\$6,630.55	202	\$1,742,046.57	\$8,623.99	428	\$3,240,550.53	\$7,571.38
Ethnic Origin	42	\$419,710.00	\$9,993.10	55	\$464,739.80	\$8,449.81	97	\$884,449.80	\$9,118.04
Family Status	29	\$157,034.19	\$5,414.97	16	\$83,928.00	\$5,245.50	45	\$240,962.19	\$5,354.72
Marital Status	8	\$73,691.51	\$9,211.44	11	\$81,470.00	\$7,406.36	19	\$155,161.51	\$8,166.40
Place of Origin	34	\$347,160.00	\$10,210.59	43	\$349,204.54	\$8,121.04	77	\$696,364.54	\$9,043.70
Public Assistance	1	\$2,500.00	\$2,500.00	0	\$0.00	\$0.00	1	\$2,500.00	\$2,500.00
Race & Colour	111	\$992,911.72	\$8,945.15	131	\$916,718.48	\$6,997.85	242	\$1,909,630.20	\$7,891.03
Record of Offences	1	\$7,500.00	\$7,500.00	1	\$2,408.00	\$2,408.00	2	\$9,908.00	\$4,954.00
Reprisal	52	\$589,842.71	\$11,343.13	41	\$472,320.00	\$11,520.00	93	\$1,062,162.71	\$11,421.10
Sex <sup>1</sup>	97	\$738,705.44	\$7,615.52	119	\$1,227,183.97	\$10,312.47	216	\$1,965,889.41	\$9,101.34
Sexual Harassment	0	\$0.00	\$0.00	6	\$103,858.00	\$17,309.67	6	\$103,858.00	\$17,309.67
Sexual Orientation	17	\$148,145.86	\$8,714.46	8	\$28,800.00	\$3,600.00	25	\$176,945.86	\$7,077.83
<b>Total Cases</b>	<b>682</b>	<b>\$5,594,662.76</b>	<b>\$8,203.32</b>	<b>713</b>	<b>\$6,256,525.53</b>	<b>\$8,774.93</b>	<b>1395</b>	<b>\$11,851,188.29</b>	<b>\$8,495.48</b>

<sup>1</sup>Sex<sup>1</sup> includes pregnancy, breastfeeding, and gender identity and sexual solicitation/harassment.

Table 3: Cases completed or referred, by disposition and grounds

Dismissed on the merits (s. 36) <sup>1</sup>	19	27	5	1	6	20	89	49	10	10	30	3	135	3	21	48	7	7	490	204	9.8%
Dismissed on preliminary objections (s. 34)	4	8	0	3	2	6	20	12	4	1	6		21	2	7	11	0	2	109	46	2.2%
Referred to Human Rights Tribunal	6	8	0	0	1	10	133	16	10	4	13	38	46	0	20	57	4	5	371	2201	9.6%
Resolved	12	14	5	1	1	3	93	27	10	7	21	4	58	0	23	42	3	8	332	172	8.2%
Settled	61	46	5	4	3	44	489	108	51	23	86	1	258	2	89	226	7	27	1,530	802	38.4%
Withdrawn	64	25	11	4	9	27	368	87	49	23	65	13	180	4	81	176	5	27	1,218	665	31.8%
<b>Total<sup>2</sup></b>	<b>166</b>	<b>128</b>	<b>26</b>	<b>13</b>	<b>22</b>	<b>110</b>	<b>1192</b>	<b>299</b>	<b>134</b>	<b>68</b>	<b>221</b>	<b>59</b>	<b>698</b>	<b>11</b>	<b>241</b>	<b>560</b>	<b>26</b>	<b>76</b>	<b>4,050</b>	<b>2,090</b>	<b>100.0%</b>
Percentage (%)	4.1%	3.2%	0.6%	0.3%	0.5%	2.7%	29.4%	7.4%	3.3%	1.7%	5.5%	1.5%	17.2%	0.3%	6.0%	13.8%	0.6%	1.9%	100%		
	Age	Ancestry	Association	Breach of Settlement	Citizenship	Creed	Disability	Ethnic Origin	Family Status	Marital Status	Place of Origin	Public Assistance	Race & Colour	Record of Offences	Reprisal	Sex <sup>3</sup>	Sexual Harassment	Sexual Orientation	<b>Sum of grounds</b>	Total Complaints	Percentage of all Complaints (%)

<sup>1</sup>Complaints dismissed under section 36 of the Code include cases where the evidence did not warrant a hearing, or the procedure was not appropriate. This includes cases that the Commission dismissed because the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

<sup>2</sup>Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed.

<sup>3</sup>"Sex" includes pregnancy, breastfeeding and gender identity.

Table 4: Cases completed or referred, by disposition and social area

Withdrawn by the Complainant <sup>7</sup>	30	6	513	100	16	665	31.8%
Settled by the Commission	29	2	672	94	5	802	38.4%
Resolved between Parties	6	1	134	26	5	172	8.2%
Dismissed based on Preliminary Objections ( <i>s.34</i> ) <sup>8</sup>	2	2	26	13	3	46	2.2%
Referred to Human Rights Tribunal ( <i>s.36</i> ) <sup>9</sup>	7	0	68	116	10	201	9.6%
Dismissed on the merits ( <i>s.36</i> ) <sup>9</sup>	16	0	126	57	5	204	9.8%
<b>Total</b>	<b>90</b>	<b>11</b>	<b>1,539</b>	<b>406</b>	<b>44</b>	<b>2,090</b>	<b>100%</b>
Percentage (%)	4.3%	0.5%	73.6%	19.4%	2.1%	100%	
	Accommodation	Contract	Employment	Services	Vocational Associations	<b>Total of Complaints</b>	Percentage of all complaints (%)

<sup>7</sup>Some as a result of a term of settlement.<sup>8</sup>These cases were dismissed after a Commission decision based on written submissions.<sup>9</sup>Includes cases where the evidence did not warrant a hearing, the procedure was not appropriate, or those where the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.



# chart: Cases completed or referred by the Commission 2008-2009

(Total = 2,090)



¹⁰These cases were dismissed after a Commission decision based on written submissions.

¹¹Complaints dismissed under section 36(2) of the Code include cases where the evidence did not warrant a hearing, or the procedure was not appropriate. Also included cases where the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

## Financial Position as at March 31, 2009 (\$'000)

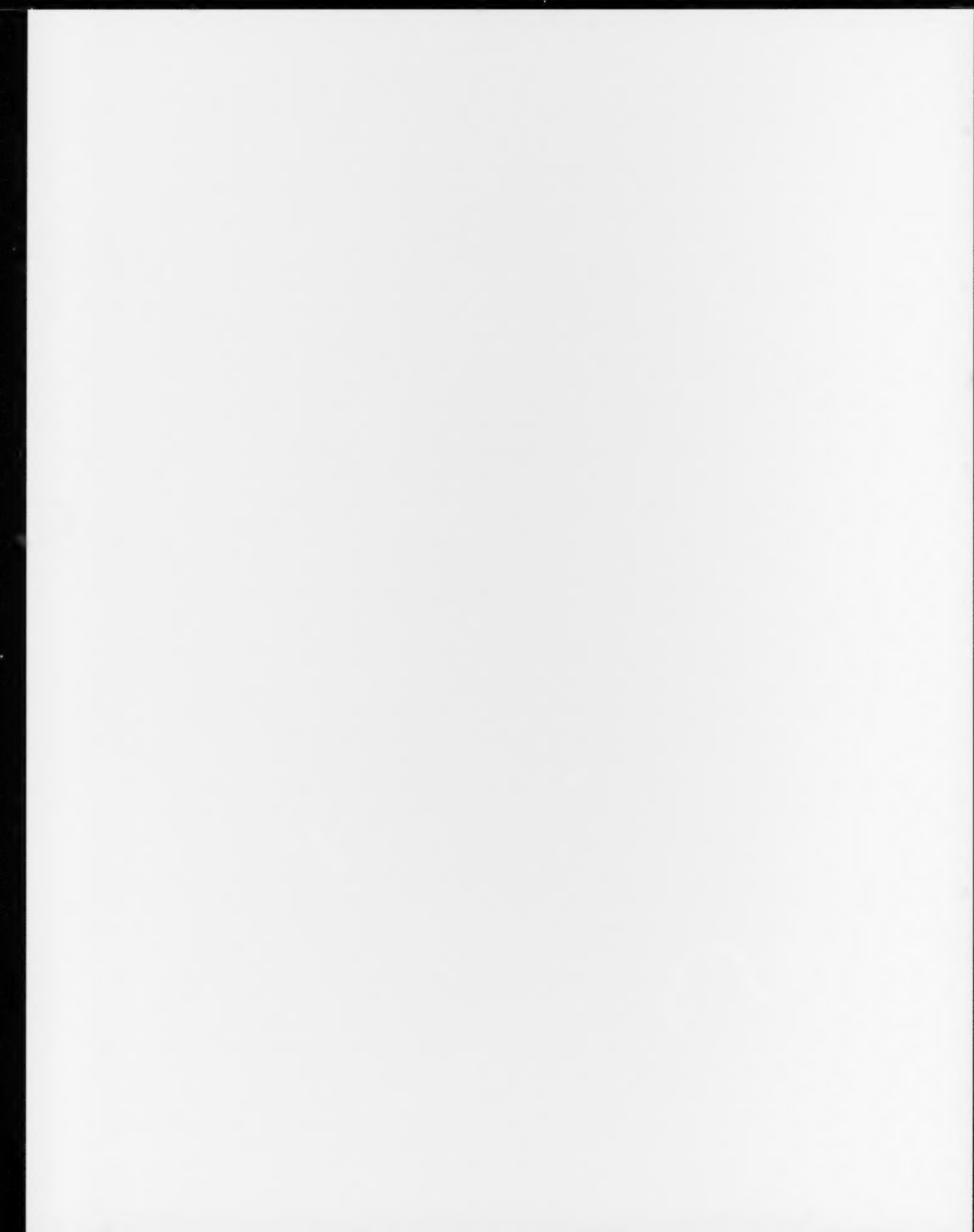
	2008-2009 Printed Estimates	Revised Budget March 31, 2009	Actual Expenditures March 31, 2009	2008-2009 Year End Variance from Revised Budget	
				\$	%
Salaries and Wages	9,937.3	10,082.8	10,628.1	(545.3)	-5.41%
Benefits	2,031.8	1,252.8	1,426.6	(173.8)	-13.87%
Other Direct Operating Expenses (ODOE)	1,687.7	2,409.6	2,123.9	285.7	11.86%
Total Expenses	13,656.8	13,745.2	14,178.6	(433.4)	-3.15%





Published by the Ontario Human Rights Commission  
Province of Ontario, Toronto, Canada  
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ISSN: 0702-0358

Graphic design by: Pass It On Communications





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